

**West Mojave Plan
Steering Committee Meeting
San Bernardino County Government Center
April 25, 2001**

Members present: Ray Bransfield, Michael Conner, Jeri Ferguson, Mark Hagan, Jeanette Hayhurst, Gene Kulesza (left early), Brad Mitzelfelt (left early), Lorelei Oviatt, Tim Read, Randy Scott

Staff and Others Present: Clarence Everly, Bill Haigh, Larry LaPré, Ed LaRue, Lisa Northrop, Douglas Parham

The meeting began at 10:15 AM.

Introduction. Bill Haigh reviewed the purpose of the meeting, which was to discuss two alternative methods to determine take in the tortoise DWMA's: the "one percent" and "no net loss" approaches. Both involve streamlined, programmatic procedures for determining take, and pre-set compensation ratios. The "one percent" approach allows the streamlined process to apply so long as new ground disturbance does not exceed one percent of the surface area of the tortoise DWMA's (about 15,000 acres); after that threshold is reached, the current case-by-case approach to incidental take authorizations would be reinstated. The "no net loss" approach does not have a disturbance threshold, but requires that a portion of the required compensation be met by reclamation or restoration of previously disturbed lands. Participants received a handout showing the October 4, 2000 discussions of Task Group 1.

The DWMA's currently have surface disturbance of 1.3% (about 19,000 acres) of the land area. Mining disturbs a total of about 500 acres per year in the CDCA, and 200 acres per year in the West Mojave. This includes both public and private lands.

Haigh reviewed the concerns raised about each approach. The "one percent" approach provides a development ceiling within the tortoise DWMA's but, beyond the uncertainty posed by the risk of post-threshold jeopardy decisions, may lack both an incentive to restore or reclaim disturbed habitat and a disincentive for development. There could be a rush to develop and receive allocation under the cap. The "no net loss" approach provides an incentive to restore or reclaim habitat but lacks a development ceiling, and relies on techniques the success of which is uncertain and which may take decades to determine.

Discussion. Gene Kulesza stated that "no net loss" offered an opportunity to restore roads and parcels on 19,000 acres of existing disturbance. Mike Conner stated that restoration was needed in the DWMA's anyway. Ray Bransfield agreed, but asked do we rely on grants and mitigation fees?

Gene Kulesza noted that a new U. S. Borax development alone could exceed the cap of 15,000

acres. Lorelei Oviatt, Ray Bransfield and Jeannette Hayhurst noted that the really big projects are problematic.

Oviatt suggested looking at the 19,000 existing disturbed acres as a baseline, and that the plan work towards restoring that. Mike Conner raised concerns about “no net loss.” He noted that restoration is very, very difficult. He believes that a cap on development in the DWMAs is necessary.

Mark Hagan reminded the committee of the biological basis for the restrictions – that the DWMA is the minimum necessary to assure survival of the tortoise. Hayhurst questioned the term “minimum.” Bransfield clarified this issue by noting that the 1994 Tortoise Recovery Plan recommended multiple DWMAs of 1000 square miles each. Smaller DWMAs could be established, but more intense management would have to be applied.

Ray Bransfield stated that CalTrans needed to be engaged in this discussion.

Randy Scott noted the desirability of providing incentives. San Bernardino County would like to encourage restoration. Mike Conner suggested prioritizing the restoration areas.

Ed LaRue stated that if the restoration is on private land, the land must be acquired. Oviatt cautioned that most private landowners cannot do restoration and just want to pay the fees and go ahead with their plans.

Tim Read stated that all the ecoregional plans being prepared for California Desert tortoise habitat need consistency. BLM has promised its “District Advisory Council” that a consistent approach will be taken. The other two bioregional plans within California tortoise habitat (for the Northern and Eastern Mojave desert (NEMO) and the Northern and Eastern Colorado desert (NECO)) both are planning to adopt the “one percent” approach. Read voiced his strong support for applying the “one percent” approach, at least on BLM-administered public lands.

Oviatt recommended keeping the 1% disturbance threshold for ten years, then re-evaluating. She suggested using the credit system language from the NECO Plan. She noted that the historical disturbance figure (1.3%) is a strong justification for using one percent as the threshold. She also stressed that “threshold” is the proper term, not “cap.” LaRue added that the task group has already reached consensus on the terminology to which the “threshold” applies: “allowable new ground disturbance.” Oviatt thought the phrase “prevent further degradation of the area” should be used as well.

Recommendation: Based on the foregoing, Mark Hagan suggested a compromise: combine restoration with a “one percent” threshold so that it is never reached. This led the group to complete a consensus recommendation, which follows:

- **Allowable Ground Disturbance.** Adopt a “one percent” threshold for new ground disturbance within the Habitat Conservation Area (HCA), applicable for the 30-year term of the West Mojave Plan. This threshold would be calculated separately for those

portions of the HCA under the jurisdiction of each agency or local government covered by the West Mojave Plan. This acreage would constitute the jurisdiction's *allowable ground disturbance*, or "AGD." Once a jurisdiction's AGD is exceeded, new projects would be assessed on a case by case basis, outside the streamlined program established by the West Mojave Plan.

- **Continuous Accounting.** Acreage of new ground disturbance would be tracked on a continuing basis, separately for each jurisdiction. Baseline acreage would be set as of time of plan adoption. AGD accounts would be adjusted to reflect and transfers of land from the jurisdiction of one agency or government to another.
- **Big Projects.** AGD would apply only to projects permitted by agencies participating in the West Mojave Plan. If an agency not covered by the West Mojave Plan approved a project which disturbed HCA lands, the project's ground disturbance acreage would not be deducted from the affected member jurisdiction's available AGD.
- **Habitat Credit Component.** Existing disturbed habitat could be restored, and credits granted which would raise a jurisdiction's AGD ceiling. Methodology and standards for this credit system should be developed by Task Group 1. In doing this task, the Task Group should consider the following: Restoration concepts developed by the NECO plan; Credits for rehabilitation of vehicle routes and fencing; Assigning to the Implementation Team the duty of maintaining a prioritized list of sites with potential for restoration; and effects on existing land exchanges and the BLM - Air Force Land Tenure Adjustment Program.
- **Periodic Review.** Rate of new ground disturbance, effects on wildlife and plant populations and the success of restoration programs should be assessed on a periodic basis and the plan amended as necessary.

Mark Hagan will present the results of this meeting to Task Group 1.

Bill Haigh will contact the members who either were absent or left early.